

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Criminal No. 23-748 KWR

SOLOMON PENA, DEMETRIO TRUJILLO,
and JOSE TRUJILLO,

Defendants.

**DEFENDANT SOLOMON PENA'S AMENDED MOTION TO CONTINUE TRIAL DATE
AND MOTION FOR AMENDED SCHEDULING ORDER**

COMES NOW the Defendant, SOLOMON PENA, by and through his attorney of record, ELIZABETH A. HONCE, ESQ., and hereby moves the Court to grant a Motion to Continue the Trial Date presently set, and also to Amend the Scheduling Order in this matter. Grounds for the Motions are as follows:

1. The Defendant in this matter was arraigned on the original indictment on June 7, 2023, and pled not guilty.
2. On March 26, 2024, the Government filed a superseding indictment in this matter, charging the Defendant Pena with three and possibly four new charges.
3. Defendant was arraigned on the charges in the superseding indictment on April 4, 2024, and pled not guilty
4. Defendant Pena is now charged with violations of 18 USC 371, Conspiracy; 18 USC (b) (1) (A), Interference with Federal Protected Activities, Aiding and Abetting; 18 USC 924(c)(1)(A)(iii), Using and Carrying a Firearm During and in Relation to a Crime of Violence and Discharging a Firearm; Aiding and Abetting; 18 USC 924(c)(1)(A)(iii) and (B)(ii), Using and Carrying a Machinegun During and in Relation to a Crime of Violence,

and Discharging said Firearm; Aiding and Abetting; 18 USC 922(g)(1) and 924, Felon in Possession of a Firearm and Ammunition. And 18 USC 373, Solicitation to Commit a Crime of Violence, for a total of 13 charges.

5. Prior to this superseding indictment, the Court had already ruled that this case was a complex matter and ample time should be given to prepare the case for trial.
6. After the case was ordered to be a complex matter, the Government and the Defendants were able to come to an agreement as to the previous scheduling order.
7. Defendant Pena respectfully requests a continuance to complete several tasks that are vital to his defense. Specifically, Defendant requests an an additional 90 days from the current setting to review new discovery and conduct investigation. Additionally, Defendant requires time to prepare for trial, prepare and file any additional motions on the new charges. Defendant requests an extension of the time to file for an expert witness resulting from the new charges.
8. Due to the superseding indictment, the Government has now divulged voluminous additional evidence pertaining to these new charges which will require extra time to investigate.
9. Defendant Pena requests a continuance of the trial of no less than 90 days from the current setting. Counsel believes that length of time to be the minimum that will be sufficient to complete discovery and trial preparation in this case.
10. The Defendant's right to the effective assistance of counsel includes adequate time to prepare for trial. Without adequate time to prepare for trial, Defendant Pena will be denied his right to the effective assistance of counsel. (See *United States v. Verderame*, 51 F.3d 249, 252 (11th Cir 1995)(quoting *Avery v. Alabama*, 308 U.S. 444, 446, 60 S.Ct. 321, 322 (1940)).
11. Defendant Solomon Pena agrees to this continuance and will not be prejudiced by this continuance. Additional time will not prejudice Defendant and will permit him additional

time to prepare and file pretrial motions, to further investigate this case and the new charges, and to prepare for trial. Counsel has discussed with Defendant Pena his rights under the Speedy Trial Act and Defendant understands the need for a continuance and respectfully requests that the Court continue Defendant Pena's trial for the 90 days requested by counsel and amend the current scheduling order to permit Defendant Pena the opportunity to file any motions on the new charges.

12. Undersigned counsel affirmatively states that the ends of justice will be served by granting this extension of time in which to file motions and a continuance of trial. (See *United States v. Hernandez-Mejia*, 406 Fed. App'x 330, 338 (10th Cir. 2011) ("The Speedy Trial Act was intended not only to protect the interests of defendants, but was also 'designed with the public interest firmly in mind.'") (quoting *United States v. Toombs*, 5745 F.3d 1262, 1273 (10th Cir. 2009)). A continuance of the deadlines and jury trial in this matter will provide Defendant Pena time to review the discovery, pursue any investigation, and assess the viability of any defenses. This motion is not predicated upon the congestion of the Court's docket.

Dated April 22, 2024

Respectfully submitted,

By: /s/ Elizabeth A. Honce
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CERTIFICATE OF SERVICE

I hereby certify that on April 25, 2024, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means as more fully reflected on the Notice of Electronic Filing:

Assistant United States Attorney Jeremy Pena

Assistant United States Attorney Patrick Cordova

Senior Litigation Counsel Ryan Crosswell

COUNSEL FOR THE UNITED STATES

/s/ *Elizabeth A. Honce, Esq.*

Elizabeth A. Honce, Esq.